

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CLARENCE BROWN,

Petitioner,

v.

No. 11-cv-0917 MV/SMV

**ERASMO BRAVO, Warden,
ATTORNEY GENERAL OF THE STATE
OF NEW MEXICO,**

Respondent.

**ORDER DENYING PETITIONER’S MOTION FOR TRANSFER PURSUANT TO
RULE 23(A) AND RULE 23(B)(2)**

THIS MATTER comes before the Court on Petitioner’s Motion for Transfer Pursuant to Rule 23(a) & Rule 23(b)(2) Federal Civil Judicial Procedure & Rules [sic] [Doc. 12] (“Motion for Transfer of Custody”).¹ In his two-page motion, Petitioner seeks an order to be “allowed to transfer [from] the current custodian to a different custodian.” Motion for Transfer of Custody at 1, ¶ 2. Petitioner cites “Rule 23(b)(2)” as the source of authority for this Court to order such a transfer. *Id.* at ¶ 3. It is unclear whether Petitioner relies upon Fed. R. Civ. P. 23, which governs class actions, or Fed. R. App. P. 23, which applies only to appeals. In any event, neither Rule gives the Court the authority to grant the requested relief.

IT IS THEREFORE ORDERED that Petitioner’s Motion for Transfer of Custody [Doc.12] is hereby **DENIED**.

¹ Petitioner is incarcerated, proceeding *in forma pauperis*, and appearing pro se. Prisoner’s Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 [Doc. 2] at 2, ¶ 6; Order [Doc. 3].

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'S. Vidmar', is positioned above a horizontal line.

STEPHAN M. VIDMAR
United States Magistrate Judge